

**SUBPART 246.4—GOVERNMENT CONTRACT QUALITY ASSURANCE**

**246.406 Foreign governments.**

(1) *Quality assurance among North Atlantic Treaty Organization (NATO) countries.*

(i) NATO Standardization Agreement (STANAG) 4107, Mutual Acceptance of Government Quality Assurance and Usage of the Allied Quality Assurance Publications—

(A) Contains the processes, procedures, terms, and conditions under which one NATO member nation will perform quality assurance for another NATO member nation or NATO organization;

(B) Standardizes the development, updating, and application of the Allied Quality Assurance Publications; and

(C) Has been ratified by the United States and other nations in NATO with certain reservations identified in STANAG 4107.

(ii) Departments and agencies shall follow STANAG 4107 when—

(A) Asking a NATO member nation to perform quality assurance; or

(B) Performing quality assurance when requested by a NATO member nation or NATO organization.

(2) *International military sales (non-NATO).* Departments and agencies shall—

(i) Perform quality assurance services on international military sales contracts or in accordance with existing agreements;

(ii) Ensure conformance to the technical and quality requirements of international military sales contracts;

(iii) Inform host or U.S. Government personnel and contractors on the use of quality assurance publications;

(iv) Specify appropriate quality requirements in contracts awarded to other countries; and

(v) Delegate quality assurance to the host government when satisfactory services are available.

(3) *Reciprocal quality assurance agreements.* A Memorandum of Understanding (MOU) with a foreign country may contain an annex that provides for the reciprocal performance of quality assurance services. MOUs should be checked to determine whether such an annex exists for the country where a defense contract will be performed. (See Subpart 225.8 for more information about MOUs.)

**246.407 Nonconforming supplies or services.**

(1) Contracting officers shall use the following MIL-STD-109 definitions in determining conformance with contract requirements—

(i) “Critical nonconformance” is a nonconformance that judgment and experience indicate—

(A) Is likely to result in hazardous or unsafe conditions for individuals using, maintaining, or depending upon the supplies or services; or

(B) Is likely to prevent performance of a vital agency mission.

(ii) “Major nonconformance” is a nonconformance, other than critical, that is likely to result in failure, or to materially reduce the usability of the supplies or services for their intended purpose.

(iii) “Minor nonconformance” is a nonconformance that is not likely to materially reduce the usability of the supplies or services for their intended purpose, or is a departure from established standards having little bearing on the effective use or operation of the supplies or services.

(2) Contracting officers shall ensure that—

(i) Nonconformances are identified; and

(ii) The significance of a nonconformance is established when considering the acceptability of supplies or services which do not meet contract requirements.

(f) If nonconforming material or services are discovered after acceptance, the defect appears to be the fault of the contractor, any warranty has expired, and there are no other contractual remedies, the contracting officer—

(i) Shall notify the contractor in writing of the nonconforming material or service;

(ii) Shall request that the contractor repair or replace the material, or perform the service, at no cost to the Government; and

(iii) May accept consideration if offered. For guidance on solicitation of a refund, see Subpart 242.71.

**246.408 Single-agency assignments of Government contract quality assurance.**

**246.408-70 Subsistence.**

(a) The Surgeons General of the military departments are responsible for—

(1) Acceptance criteria;

(2) Technical requirements; and

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(3) Inspection procedures needed to assure wholesomeness of foods.

(b) The contracting office may designate any Federal activity, capable of assuring wholesomeness and quality in food, to perform quality assurance for subsistence contract items. The designation may—

- (1) Include medical service personnel of the military departments; and
- (2) Be on a reimbursable basis.

#### **246.408-71 Aircraft.**

(a) The Federal Aviation Administration (FAA) has certain responsibilities and prerogatives in connection with some commercial aircraft and of aircraft equipment and accessories (Pub. L. 85-726 (72 Stat 776, 49 U.S.C. 1423)). This includes the issuance of various certificates applicable to design, manufacture, and airworthiness.

(b) FAA evaluations are not a substitute for normal DoD evaluations of the contractor's quality assurance measures. Actual records of FAA evaluations may be of use to the contract administration office (CAO) and should be used to their maximum advantage.

(c) The CAO shall ensure that—

- (1) The supplies and services conform to the terms of the contract; and
- (2) The contractor possesses any required FAA certificates and approvals prior to acceptance.

#### **246.408-72 Construction projects.**

(a) The department or agency responsible for the construction of a building or other structure is normally responsible for on-site inspection.

(b) The contract administration office performs quality assurance for construction materials and supplies acquired for military and civil works projects.

(c) The offices responsible for on-site inspection and for quality assurance of materials and supplies must coordinate their efforts to ensure the compatibility of buildings and structures and installed equipment.

#### **246.470 Government contract quality assurance actions.**

##### **246.470-1 Planning.**

In systematically planning Government contract quality assurance actions used to determine a contractor's compliance with contract quality requirements, consider—

- (a) The relative importance of the product; and
- (b) The variety of tasks required of the available resources.

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**246.470-2 Evidence of conformance.**

Use objective evidence of quality to determine conformance to contract quality requirements.

**246.470-3 Assessment of additional costs.**

(a) Under the clause at FAR 52.246-2, Inspection of Supplies—Fixed-Price, the Government may charge the contractor for additional costs incurred by the Government due to delays in tests or inspections caused by the contractor, or due to the necessity for reinspection or retest. This action may be necessary when—

(1) Supplies are not ready at the time such inspection and test are requested by the contractor; or

(2) Reinspection or retest is necessitated by prior rejection.

(b) After considering the factors in paragraph (d) of this subsection, the quality assurance representative (QAR) may believe that the assessment of additional costs is warranted. If so, the representative shall recommend that the contracting officer take the necessary action and provide a recommendation as to the amount of additional costs. Costs are based on the applicable Federal agency, foreign military sale, or public rate in effect at the time of the delay, reinspection, or retest.

(c) If the contracting officer agrees with the QAR, the contracting officer shall—

(1) Notify the contractor, in writing, of the determination to exercise the Government's right under the clause at FAR 52.246-2, Inspection of Supplies—Fixed Price; and

(2) Demand payment of the costs in accordance with the collection procedures contained in FAR Subpart 32.6.

(d) In making a determination to assess additional costs, the contracting officer shall consider—

(1) The frequency of delays, reinspection, or retest under both current and prior contracts;

(2) The cause of such delay, reinspection, or retest; and

(3) The expense of recovering the additional costs.

**246.470-4 Maintenance of Government records.**

The contract administration office shall maintain suitable records of the quality assurance performance of contractors.

**246.470-5 Quality evaluation data.**

The contract administration office shall establish a system that provides, as a minimum, for the collection, evaluation, and use of—

(a) Quality data developed by the contractor during performance;

(b) Data developed by the Government through contract quality assurance actions;  
and

(c) Reports by users and customers.

**246.471 Authorizing shipment of supplies.**

(a) *General.*

(1) Ordinarily, a representative of the contract administration office signs or stamps the shipping papers that accompany Government source-inspected supplies to release them for shipment. This is done for both prime and subcontracts.

(2) An alternative procedure (see paragraph (b) of this section) permits the contractor to assume the responsibility for releasing the supplies for shipment.

(3) The alternative procedure may include prime contractor release of supplies inspected at a subcontractor's facility.

(4) The use of the alternative procedure releases DoD manpower to perform technical functions by eliminating routine signing or stamping of the papers accompanying each shipment.

(b) *Alternative Procedures—Contract Release for Shipment.*

(1) The contract administration office may authorize, in writing, the contractor to release supplies for shipment when—

(i) The stamping or signing of the shipping papers by a representative of the contract administration office interferes with the operation of the Government contract quality assurance program or takes too much of the Government representative's time;

(ii) There is sufficient continuity of production to permit the Government to establish a systematic and continuing evaluation of the contractor's control of quality;  
and

(iii) The contractor has a record of satisfactory quality, including that pertaining to preparation for shipment.

(2) The contract administration office shall withdraw, in writing, the authorization when there is an indication that the conditions in paragraph (b)(1) of this subsection no longer exist.

(3) When the alternative procedure is used, require the contractor to—

(i) Type or stamp, and sign, the following statement on the required copy or copies of the shipping paper(s), or on an attachment—

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The supplies in this shipment—

1. Have been subjected to and have passed all examinations and tests required by the contract;
2. Were shipped in accordance with authorized shipping instructions;
3. Conform to the quality, identity, and condition called for by the contract; and
4. Are of the quantity shown on this document.

This shipment was—

1. Released in accordance with section 246.471 of the Defense FAR Supplement; and
2. Authorized by (name and title of the authorized representative of the contract administration office) in a letter dated (date of authorizing letter). (Signature and title of contractor's designated official.)

(ii) Release and process, in accordance with established instructions, the DD Form 250, Material Inspection and Receiving Report, or other authorized receiving report.

#### **246.472 Inspection stamping.**

(a) There are two DoD quality inspection approval marking designs (stamps). Both stamps are used—

and (1) Only by, or under the direct supervision of, the Government representative;

(2) For both prime and subcontracts.

(b) The designs of the two stamps and the differences in their uses are—

(1) *Partial (Circle) Inspection Approval Stamp.*

(i) This circular stamp is used to identify material inspected for conformance to only a portion of the contract quality requirements.

(ii) Further inspection is to be performed at another time and/or place.

(iii) Material not inspected is so listed on the associated DD Form 250 (Material Inspection and Receiving Report), packing list, or comparable document.

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#### (2) *Complete (Square) Inspection Approval Stamp.*

(i) This square stamp is used to identify material completely inspected for all contract quality requirements at source.

(ii) The material satisfies all contract quality requirements and is in complete conformance with all contract quality requirements applicable at the time and place of inspection.

(iii) Complete inspection approval establishes that material which once was partially approved has subsequently been completely approved.

(iv) One imprint of the square stamp voids multiple imprints of the circle stamp.

(c) The marking of each item is neither required nor prohibited. Ordinarily, the stamping of shipping containers, packing lists, or routing tickets serves to adequately indicate the status of the material and to control or facilitate its movement.

(d) Stamping material does not mean that it has been accepted by the Government. Evidence of acceptance is ordinarily a signed acceptance certificate on the DD Form 250, Material Inspection and Receiving Report.

(e) Policies and procedures regarding the use of National Aeronautics and Space Administration (NASA) quality status stamps are contained in NASA publications. When requested by NASA centers, the DoD inspector shall use NASA quality status stamps in accordance with current NASA requirements.